1	CLOTHILDE V. HEWLETT				
2	Commissioner				
2	MARY ANN SMITH				
3	Deputy Commissioner				
4	DANIEL P. O'DONNELL Assistant Chief Counsel				
	RYAN M. CASSIDY (State Bar No. 340274)				
5	Counsel				
6	Department of Financial Protection and Innovation				
7	2101 Arena Boulevard Sacramento, CA 95834				
0	Telephone: (916) 764-8358				
8	Attorneys for Complainant				
9		NOVEL DE CERCENOS ESTADOS DE POSTO ESTADOS DE CONTRACTOR D			
10	BEFORE THE DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION OF THE STATE OF CALIFORNIA				
11	In the Matter of:				
12	in the Matter of.	FINAL ORDER LEVYING			
	THE COMMISSIONER OF FINANCIAL	ADMINISTRATIVE PENALTIES AND			
13	PROTECTION AND INNOVATION,	ANCILLARY RELIEF			
14	Complainant,	(Corp. Code §§ 25252 and 25532)			
15	V.	(Corp. Code §§ 25252 and 25552)			
16	ANDREW L. PENN,				
17	Respondent.				
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19	The Commissioner of Financial Protection and Innovation (Commissioner) finds that:				
20	I.				
21	STATEMENT OF FACTS				
22	1. At all relevant times herein, Andrew L. Penn (Penn), is and was a California resident,				
23	located at 26608 Sunflower Court, Calabasas, California 91302, conducting business by telephone at				
24	(818) 427-5634 and by email at Andrewdarci@gmail.com.				
25	2. Beginning in or about November 2019, Penn offered and/or sold securities, in the form				
26	of Private Investment Agreements - investment contracts - in California through telephone calls and				
27	email correspondence.				
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3.	The securities were offered or sold in this state in issuer transactions. The Department
of Financial	Protection and Innovation has not issued a permit or other form of qualification
authorizing	any person to offer or sell the above-described securities, in this state.

- 4. Penn provided investors with a "Private Investment Agreement" that indicated that he would use the proceeds from the sales of these securities to acquire, hold, and sell artworks.
- 5. Penn sold these securities to at least six investors, residing in California and elsewhere, in at least 12 separate transactions, raising at least \$622,275.00.
- 6. Corporations Code¹ section 25110 prohibits the offer or sale of unqualified, non-exempt securities in issuer transactions in the State of California. The securities offered and sold by the Penn are subject to qualification under the CSL. These securities were offered or sold in this state in issuer transactions. The Department has not issued a permit or other form of qualification authorizing any person to offer or sell these securities in this state. The offer or sale of these securities is not exempt.
- 7. In connection with the offers and sales of these securities, Penn made, or caused to be made, misrepresentations of material fact to investors and potential investors, including that:
- a. The investment was "Fully Guaranteed" with a "guaranteed return" of "40% over a term of 19 months" or "guaranteed return of 22.8% term ending the end of February 2023;
 - b. The investor would receive semi-annual payments;
 - c. The investment had "Zero Risk; and
- d. The client had sole discretion "to determine how the proceeds are allocated," at the end of the contracted term.
- 8. In fact, none of these statements were true. At least five of the investors never received any payments. One investor did receive a portion of the original deposit after asking for a refund but received no profits. At least six investors have made multiple requests for a refund from Penn but have been unsuccessful.

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¹ Unless stated otherwise, all section references are to the California Corporations Code.

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- 9. Section 25401 prohibits the offer or sale of securities in this state by means of written or oral communications that include untrue statements of material fact or omit materials facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading. The omissions and misrepresentations of Penn are material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading. 10. On June 11, 2024, the Commissioner issued a claim for ancillary relief and a statement in support of order levying administrative penalties (collectively, the "Orders"). 11.
- On July 22, 2024, Penn was served with the Orders, Commissioner's notice of intention to issue the aforementioned Orders (Notice of Intention), Statement to Respondents, a Notice of Defense, and Government Code sections 11507.5, 11507.6, and 11507.7.
- 12. The Commissioner has not received a request for hearing, and the statutory time period to request a hearing has expired.

II.

FINAL ORDER LEVYING ADMINISTRATIVE PENALTIES

- 13. The Commissioner re-alleges and reincorporates by reference paragraphs 1-10 of this Final Order Levying Administrative Penalties and Ancillary Relief as fully set forth herein.
- 14. Corporations Code section 25252 authorizes the Commissioner to issue an order levying administrative penalties against any person for willful violations of any provision of the CSL and any rules promulgated thereunder. Specifically, Corporations Code section 25252 provides, in relevant part:

The commissioner may, after appropriate notice and opportunity for hearing, by orders, levy administrative penalties as follows: (a) Any person subject to this division, other than a broker-dealer or investment adviser, who willfully violates any provision of this division, or who willfully violates any rule or order adopted or issued pursuant to this division, is liable for administrative penalties of not more than one thousand dollars (\$1,000) for the first violation, and not more than two thousand five hundred dollars (\$2,500) for each subsequent violation.

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15	5.	Based on the foregoing findings of fact, as set forth fully above in paragraphs 1-10,	
Penn will	lfully	violated Corporations Code section 25110 by offering the above described securities in	
California in issuer transactions without a permit or other form of qualification from the Department			
authorizing any person to offer or see these securities in the form of promissory notes.			
10	6.	Also based on the foregoing findings of fact, as set forth fully above in paragraphs 1-	
10, Penn willfully violated Corporations Code section 25401 by making untrue statements or			
omissions in association with the offer and sale of securities in the form of promissory notes in			
California and elsewhere, to at least five investors.			

- 17. WHEREFORE, good cause showing, and pursuant to Corporations Code section 25252, the Commissioner enters this final order levying administrative penalties in the amount of \$148,500.00 against Penn, as follows:
 - a) First Violation: \$1,000.00 for the first violation of Corporations Code 25110;
 - b) Additional violations:
 - i. \$2,500.00 for the remaining 11 sales of securities;
 - ii. \$2,500.00 for the misrepresentation in paragraph 8a, made in at least 12 transactions;
 - iii. \$2,500.00 for the misrepresentation in paragraph 8b, made in at least 12 transactions;
 - iv. \$2,500.00 for the misrepresentation in paragraph 8c, made in at least 12 transactions; and
 - v. \$2,500.00 for the misrepresentation in paragraph 8d, made in at least 12 transactions.

The administrative penalties levied in the amount of \$148,500.00 shall be due and payable to the Department of Financial Protection and Innovation within 30 days of service of this final order and sent to the attention of: Accounting, Department of Financial Protection and Innovation, located at 2101 Arena Boulevard, Sacramento, California 95834. Notice of the payment shall concurrently be sent to the attention of: Ryan M. Cassidy, Counsel, Enforcement Division, 2101 Arena Boulevard, Sacramento, California 95834.

FINAL ORDER FOR ANCILLARY RELIEF

18. Section 25532 authorizes the Commissioner to seek ancillary relief on behalf of any person injured by violations of any provision of the CSL and any rules promulgated thereunder.

III.

- 19. Based on the foregoing findings, the Commissioner finds that Penn offered and sold by means of fraud, unqualified, nonexempt securities in California, in the amount of at least \$622,275.00, in violation of sections 25110 and 25401.
- 20. WHEREFORE, good cause showing and pursuant to section 25532 the Commissioner enters this final order for ancillary relief, in the form of restitution, in the amount of \$622,275.00 against Penn, due and payable 30 days from the date of this order.

IV.

CONCLUSION

- 21. NOW THEREFORE, GOOD CAUSE SHOWING, IT IS HEREBY ORDERED that Andrew L. Penn pay administrative penalties in the amount of \$148,500.00 and restitution in the amount of \$622,275.00, due and payable 30 days from the date of this order.
- 22. The Commissioner finds that each of the above enumerated matters provide an independent basis under sections 25252 and 25532, justifying the issuance of an order levying administrative penalties in the amount of \$148,500.00 and ordering restitution in the amount of \$622,275.00 to Penn's investors, due and payable 30 days from the date of this order. Based upon the foregoing, the Commissioner finds it is in the public interest to enter this final order.
- 23. This Final Order Levying Administrative Penalties and Ancillary Relief is the final decision of the Commissioner, pursuant to section 25252 and 25532. This order is effective immediately.

By:

DATED: November 14, 2024 Sacramento, California CLOTHILDE V. HEWLETT
Commissioner of Financial Protection and Innovation



MARY ANN SMITH
Deputy Commissioner
Enforcement Division

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